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February 6, 2004

VIA ELECTRONIC FILING

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room TWB-204  
Washington, DC 20554

Re: Notice of Ex Parte Presentation  
In the Matter of Petitions of US LEC Corp. and T-Mobil USA, Inc., et al, for Declaratory Ruling Regarding Intercarrier Compensation for Wireless Traffic, WCB No. 01-92 and Qwest Petition for Reconsideration, 96-262;

In the Matter of AT&T's Petition for Declaratory Ruling That AT&T's Phone-to-Phone IP Telephony Services Are Exempt From Access Charges, WCB No. 02-361; Vonage Holding Company's Petition for Declaratory Ruling, WC No. 03-211; Level 3 Communications Petition for Forbearance, WC No. 03-266; Petition for Declaratory Ruling that Pulver.com.s Free World Dialup is Neither Telecommunications Nor a Telecommunications Service, WC No. 03-45; In the Matter of Developing a Unified Intercarrier Compensation Regime, WCB No. 01-92

Dear Ms. Dortch,

On Wednesday February 4, I spoke on the telephone two times with Dan Gonzalez, Commissioner Martin's Senior Legal Adviser, to discuss issues related to the aforementioned proceedings. During the course of those discussions, I urged the FCC to clarify in the Petition for Reconsideration proceeding that CLECs can only charge the ILEC rate element for each access function they actually provide to the IXC. For example, CLECs cannot charge a blended rate that combines an end office-switching rate, a tandem-switching rate and transport when they are only providing end office switching and handing the traffic off to the IXC at the ILEC tandem (who is then also charging the IXC a tandem and transport rate). In addition, I also urged the Commission to deny the US LEC petition that seeks the ability for CLECs to impose additional access charges on interexchange carriers, when in fact, the CLEC provides no access service or functionality. Where a CLEC simply inserts itself between the CMRS provider and the ILEC tandem, it provides no genuine access function and should not be permitted to charge the interexchange carrier access. In the situation where a CLEC actually replaces the

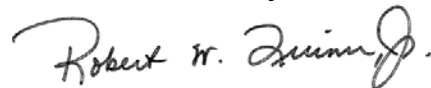
ILEC in providing the tandem switching or other genuine access functions, the CLEC should only be permitted to charge the ILEC rate for the access functions that are actually being performed by the CLEC, not the full CLEC benchmark rate as requested by US LEC.

In addition, I urged the Commission not to impose the existing PSTN access charge scheme on VoIP, as those regulations would disincent investment in this important new technology. I also explained that issues related to universal service and access charge contribution (which are affected by the intersection of IP technology with the PSTN) were better addressed holistically in an intercarrier compensation reform proceeding that eliminates the access charge regime entirely rather than begin the process of importing the competition-distorting access charge regime into this new technology. I explained that the Commission's failure to act in a timely manner in that proceeding (which has been pending nearly three years) was placing undue pressure on the Commission to act in a *very* regulatory manner towards VoIP traffic and that the Commission must not provide disincentives to backbone providers that will deter them from the process of upgrading and investing to expand their IP capabilities. That investment will be necessary for the industry to provide a seamless conversion to an IP-based infrastructure that is transparent to end-users. I reaffirmed that the Commission should continue the de-regulatory policies that were established in 1998 and reaffirmed in 2001 in the Commission's *Inter Carrier Compensation NPRM* and reiterated the view that imposition of access charges on VoIP would disincent investment by backbone providers in IP architectures and thus slow investment in this key technology area (contrary to prior Commission policy).

is being submitted for each of the referenced proceedings in accordance with the Commission's rules.

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Sincerely,

A handwritten signature in cursive script, appearing to read "Robert W. Quinn".

cc: Dan Gonzalez